

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.1264 OF 2006

Ramesh Jivanlal Aacharya & anr.	..Petitioners.
Vs.	
Harishchandra Shriram Vaidya	..Respondent.
...	
Mr. P.N. Joshi for the Petitioners.	

CORAM : [DR.D.Y.CHANDRACHUD](#), J.

12th April, 2006.

P.C.:

1. In pursuance of the order of eviction that was passed by the competent authority which has been confirmed in revision by the Additional Commissioner, possession has been handed over to the Respondent. That part of the order has attained finality and is not questioned. However, the Petition has been pressed in respect of the direction for the recovery of damages at the rate of Rs.4,000/- per month from 17th March, 2000 until possession was delivered.

2. On behalf of the Petitioners it has been submitted that the agreement of licence was required to be registered under

Section 55 of the Maharashtra Rent Control Act, 1999 and in the absence of registration the consequences envisaged in sub section (2) of Section 55 will ensue. Section 55 of the Maharashtra Rent Control Act, 1999 provides as follows :

“55. Tenancy agreement to be compulsorily registered

(1) Notwithstanding anything contained in this Act or any other law for the time being in force, any agreement for leave and licence or letting of any premises, entered into between the landlord and the tenant or the licensee, as the case may be, after the commencement of this Act, shall be in writing and shall be registered under the Registration Act, 1908.

(2) The responsibility of getting such agreement registered shall be on the landlord and in the absence of the written registered agreement, the contention of the tenant about the terms and conditions subject to which a premises have been given to him by the landlord on leave and licence or have been let to him shall prevail, unless proved otherwise.

(3) Any landlord who contravenes the provisions of this section shall, on conviction, be punished with imprisonment which may extend to three months or with fine not exceeding rupees five thousand or with both”.

Sub section (1) of Section 55 requires that any agreement for leave and licence or for the letting of premises entered into between the landlord and the tenant or the licensee, as the case may be, after

commencement of the Act shall have to be registered under the Registration Act, 1908. In the present case, the agreement of licence was entered into on 17th April, 1999 which was before the enforcement of the provisions of the Maharashtra Rent Control Act, 1999 on 10th March, 2000. The provision for compulsory registration will therefore clearly not apply to such an agreement. Section 24 of the Act provides, in sub section (2) that the licensee who does not deliver possession of the premises to the landlord on the expiry of the period of licence and continues to be in possession of the licensed premises till he is dispossessed by the competent authority shall be liable to pay damages at double the rate of the licence fee or charge of the premises fixed under the agreement of licence. In the present case therefore in terms of sub section (2) of Section 24 the competent authority directed that after the date of the expiry of the licence on 17th March, 2000 the Petitioners would be liable to pay the arrears of licence fee at the rate of Rs.4,000/- per month that is to say at twice the rate agreed between the parties in the licence agreement.

3. On behalf of the Petitioners, however, the attention of the Court has been drawn to the statement made by the Respondent in

the course of the examination to the effect that on the request of the Petitioners the Respondent orally extended the duration of the period of licence for a further six months. Hence, it was submitted that for a period of that six months, the Petitioners should not be liable to pay damages at twice the agreed licence fee. This point, it would appear from the record, has not been urged before the competent authority or the revisional authority. Hence, it would not be appropriate for this Court to entertain the submission at this stage. However, while disposing of the Petition, it would be in the interests of justice if permission is granted to the Petitioners to move the revisional authority for a modification of the period during which licence fee at the rate of twice the agreed rate is liable to be paid. No opinion is expressed on the correctness of any such plea and it would be open to the authority to deal with it as and when it is raised.

Subject to the aforesaid, the Petition is dismissed.